

Personal Property Billing & Collecting Standards of Practice

11

Utah State Tax Commission

Property Tax Division

Rev. August 2002

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Section XI.I

General Information

Purpose

These standards establish guidelines for county officials to bill and collect locally-assessed personal property taxes. These standards will address only personal property subject to ad valorem taxes. They do not address registered personal property, such as motor vehicles, subject to fees in lieu of ad valorem taxes.

These standards intend to establish a uniform tax collection process by combining the provisions of the Utah State Constitution, the Utah Code Annotated, and generally accepted practices. By doing so, the standards should assist county officials in the equitable and uniform taxation of personal property. Also, these standards should further promote the effective and efficient collection of property taxes.

Utah State Constitution

Article XIII, Section 5 of the Utah State Constitution provides that “[t]he Legislature . . . may, by law, vest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.”

Article XIII, Section 2(1) of the Utah State Constitution provides that “[a]ll tangible property in the state, not exempt . . . , shall be taxed at a uniform and equal rate in proportion to its value, to be ascertained as determined by law.”

Utah Code

Through these constitutional articles, the Utah State Legislature has enacted statutes enabling the counties to bill and collect personal property taxes. Title 59 of the Utah Code Annotated sets forth statutes relating to revenue and taxation. Within that title, the main body of law concerning the billing and collection of locally-assessed personal property taxes is found in Chapter 2, Part 13 (59-2-1301 through 59-2-1372).

Section XI.II

Billing Personal Property Taxes

Standard 11.1 Tax Rates From Previous Year

Taxes for personal property are calculated using the tax rate established in the previous year. (Section 59-2-1304)

Even though new tax rates are established in the middle of the current year, the new tax rates are not used to calculate personal property taxes until the following calendar year. For personal property, the rates established in one year are used the entire following calendar year.

Standard 11.2 Adjusting For Tax Relief

Tax relief for tangible personal property may be granted under the blind exemption and the veterans exemption. (See *Tax Relief and Abatement Standards of Practice*) Also, if a mobile home assessed as personal property is eligible for a residential exemption, the owner may be eligible for the veteran's exemption, indigent and circuit breaker tax relief.

Standard 11.3 Notice Of Assessment

11.3.0 Assessor/Treasurer Sends Tax Notice

Self-assessing signed statements and personal property tax notices are prepared and sent to the taxpayer by the county assessor/treasurer. [Section 59-2-1302(1)]

11.3.1 Timing of Notice

The assessor/treasurer should send the personal property self assessing signed statements and tax notices out as near the first of the calendar year as is practical, so timely action may be taken in case of delinquency.

Standard 11.4 Mobile Home Tax Notices

11.4.0 Assessed as Personal Property

The assessor/treasurer sends the tax notice when mobile homes are assessed as personal property. (See *Personal Property Valuation Standards of Practice*)

11.4.1 Information on Tax Notice

The mobile home personal property tax notice should include the following information:

- Name and mailing address of the owner
- Account number
- Street address of the real property on which the personal property is located
- Full market value
- Residential exemption, if applicable
- Taxable value
- Applicable tax rate
- Taxes due for current year
- Applicable tax relief credits
- Total due from prior years
- Total amount due
- Consequences if taxes are not paid by the due date
- Appeal rights and process
- Due date for payment

See sample form PT-110, "Mobile Home Assessment and Notice", in Appendix 11A.

Standard 11.5 Personal Property Tax Notices

11.5.0 Various Billing Methods

In Utah, personal property taxes are determined and billed in one of two ways: 1) taxes are computed by the taxpayer using a self-assessing statement; or 2) after a regular signed statement is returned on which the taxpayer has listed all personal property, the assessor/treasurer computes the taxes and sends a tax notice.

11.5.1 Signed Statements

Both the self-assessing and the regular statements are instruments to assess personal property and are detailed in the *Personal Property Valuation Standards of Practice*.

Note

Use of the self-assessing statement combines both the assessing and billing processes. Thus, the self-assessing statement should contain not only the statement components recommended in the *Personal Property Valuation Standards of Practice*, but also the tax notice components listed below in *Standard 11.5.2, "The Tax Notice."*

11.5.2 The Tax Notice

After the regular signed statement is returned, a tax notice is prepared, which should include the following information:

- Name and mailing address of owner
- Account number
- Street address of the real property where the personal property is located
- Total market value
- Tax rate
- Taxes due for current year
- Applicable tax relief credits
- Total due from prior years
- Total amount due
- Consequences if taxes are not paid by the due date
- Appeal rights and process
- Due date for payment

See sample form PT-111, "Personal Property Assessment and Notice", in Appendix 11A.

Standard 11.6 Leased Personal Property

11.6.0 Responsible Party for Property Tax

The owner of leased personal property is the lessor and it is ultimately the responsibility of the lessor to pay the property tax. For a distinction between a "true lease" and a "conditional sales agreement," see *Standard 5.4.4* in *Personal Property Valuation Standards of Practice*.

11.6.1 Tax Area of Leased Personal Property

Though the lessor is responsible for the taxes on leased personal property, leased personal property should be taxed at the rate applicable for the tax area where each

item of personal property is located, not at the rate for the tax area where the lessor is located.

11.6.2 Leased Personal Property Tax Notice

A “regular” leased personal property statement may be sent to the taxpayer to complete and return to the assessor (See *Personal Property Valuation Standards of Practice*). The assessor/treasurer then calculates the personal property taxes and sends a leased personal property tax notice to the lessor.

The leased personal property tax notice should either consist of a separate tax notice for each tax area or a summary tax notice that breaks out the taxes due in each tax area. In either case, the tax notice should include the following information:

- Name and mailing address of the lessor
- Account number
- For each tax area, the taxable value, tax rate, and taxes due for the current year in that tax area
- Total taxable value of all tax areas
- Total due for current year
- Applicable tax relief credit
- Total due from prior years
- Total amount due
- Consequences if taxes are not paid by the due date
- Appeal rights and process
- Due date for payment

See sample form PT-112, “Leased Personal Property Assessment and Notice”, in Appendix 11A.

11.6.3 Self-Assessing Leased Personal Property Statement

The assessor may choose to send a self-assessing statement to leased personal property taxpayers. If so, this document should contain the elements of both the “regular” leased personal property statement (See *Personal Property Valuation Standards of Practice*) and the leased personal property tax notice, which is detailed above.

Standard 11.7 Estimated Taxes

11.7.0 Assessor/Treasurer Collects Estimated Taxes

When a personal property signed statement is not returned, the assessor/treasurer must estimate the taxpayer’s personal property value (see *Personal Property Valuation Standards of Practice*), then send a notice of the estimated taxes to the taxpayer. [Section 59-2-307(3)]

11.7.1 Estimated Tax Notice

The Estimated Tax Notice should contain the information found in *Standard 11.5.2*, “The Tax Notice”, except for “total taxable value,” which, without a completed signed

statement, is unknown. Instead, the following information should be substituted on the estimated tax notice:

- Estimated total taxable value
- An explanation of why taxes were estimated
- The amount of penalty and interest charged because the signed statement has not been returned

Section XI.III

Collecting Personal Property Taxes

Standard 11.8 Collecting The Assessment

11.8.0 Personal Property Tax Collection

Section 59-2-1302(1), directs that the assessor/treasurer collect or attach personal property taxes and uniform fees. However, Section 17-16-5.5 provides that the duties of the assessor under Sections 59-2-1302, 1303 and 1305 may by county ordinance be assigned to the treasurer. Any taxes collected by the assessor/treasurer must be deposited into an account controlled by the treasurer. [Section 59-2-1305 (3)]

11.8.1 Form of Payment

The assessor/treasurer may accept cash, a check, or a money order as payment for personal property taxes. Though not required, the assessor/treasurer may alternatively accept a bond payable to the county, subject to the conditions found in Section 59-2-1302(1)(c). When the assessor/treasurer accepts a check, it must be made payable to the office of the county assessor/treasurer. If a check is received made out otherwise, the assessor shall immediately endorse the check with a restrictive endorsement that makes the check payable to the office of the county treasurer.

11.8.2 Partial Payments

The assessor/treasurer may accept partial payments for personal property taxes, although the assessor/treasurer may require full payment when the taxes are delinquent.

11.8.3 Priority of Partial Payments

Partial payments should first be applied to any collection costs that have been assessed to the taxpayer. Only then should the payment be applied to interest, penalties, and taxes, in that order. A partial payment should be applied to the most delinquent year first.

11.8.4 Recording Payments

The assessor/treasurer records on the personal property assessment roll the amount of personal property taxes paid. [Section 59-2-1305(1)]

Standard 11.9 Delinquency

11.9.0 Tax Notice or Self-Assessing Statement

On these notices, delinquency occurs if payment is not received within 30 days of mailing, or by the due date as set forth on the notice. [Section 59-2-1302(4)]

11.9.1 Regular Signed Statements

If a regular signed statement is not returned, the personal property taxes are considered delinquent 30 days after the date the tax notice would have been sent had the signed statement been returned on time.

Example

If a regular statement is sent out on January 15, the signed statement would be due on February 14 (30 days later). If the signed statement is returned on February 14 and one week is required to process and send out the tax notice, the tax notice would be sent out on February 21, with a due date of March 22.

Under these circumstances, a regular statement sent out on January 15 and not returned is considered delinquent as of March 22.

Standard 11.10 Collecting Delinquent Accounts

11.10.0 Statutory Collection Methods

Once a personal property tax is delinquent, the statutes provide two methods for collection:

- Attaching the personal property taxes to real property. [Section 59-2-1302(1)(a)]
- Seizing and selling the personal property. (Section 59-2-1303)

11.10.1 Statute of Limitations

Section 78-12-26(4) provides that the assessor/treasurer must either attach delinquent personal property taxes to real property or seize the delinquent personal property within three years of the delinquency.

Standard 11.11 Attachment To Real Property

11.11.0 Attaching Taxes Versus Attaching Value

When a delinquent personal property account is attached to real property, the delinquent personal property taxes are attached. These taxes are added to the real property taxes that are separately calculated.

Attachment should not result in the value of the delinquent personal property being added to the value of the real property, for the following reasons:

- Personal and real properties are taxed at different rates in the same calendar year. Adding the value instead of the tax would result in the wrong tax rate being applied to the personal property;
- Personal property may be located in a different tax area than the real property to which it is attached. As different tax areas may have different tax rates, adding the value instead of the tax would result in the wrong tax rate being applied to the personal property;
- Interest or penalty on delinquent personal property must be converted from a dollar amount to a value amount if value is attached; due to this conversion problem, interest is often incorrectly calculated.

11.11.1 Attaching Interest and Penalties

Along with delinquent personal property taxes and uniform fees, the amount of interest and penalty accrued on the delinquent taxes is also attached to real property. (See

Standard 11.16.5, “Interest on Attached Taxes Until November 30;” and *Standard 11.17*, “Penalties”)

11.11.2 Attachment as a Payment Option

Attachment is intended to be a collection method available to the assessor/treasurer. Its purpose is not to be a payment option available to the taxpayer. Nevertheless, attachment at the request of the taxpayer is allowed. However, the account must be considered delinquent. Thus, interest is to be charged in order that the taxpayer not be rewarded for delaying the payment of personal property taxes until later in the year. Any taxpayer given the option of attachment instead of payment at the regular time must be informed that interest will be charged until taxes are paid.

11.11.3 Attachment and Delinquency

Personal property taxes, whether attached at the request of the taxpayer or attached because of non-payment, are considered delinquent as of their delinquency date. (See *Standard 11.9*, “Delinquency”) For this reason, the Commission recommends that all personal property taxes be billed as unsecured. Then, if not paid 30 days after the tax notice is sent, personal property taxes may be attached.

11.11.4 Attachment Deadline and Procedures

Section 59-2-1302(1) sets forth the procedures for the collection of uniform fees and taxes on personal property. For delinquent personal property taxes to be attached to real property in a given year, the following must occur:

- The delinquent personal property account must be identified and “be listed” with the attachable real property.
- The delinquent personal property taxes must be posted to the real property assessment roll in time to “reflect” on the real property tax notice.
- The real property should be of sufficient value to secure the payment of the personal property taxes. (Section 59-2-1302)

Listing entails: 1) creating a record that identifies the real property parcel number to which the personal property tax will be attached; and 2) showing an intention to attach by physically identifying the personal property account.

11.11.5 Attachment Notice

If personal property taxes are to be attached to real property, the taxpayer should be notified of the attachment and its consequences. If a taxpayer is given the option of attachment instead of timely payment, this notice is unnecessary.

11.11.6 Matching Personal Property with Real Property

For personal property taxes to be attached to real property, the personal property owner of record must be the same as the real property owner of record. One exception is where the owner of the personal property is a partnership and the owner of the real property is a general partner in that partnership.

11.11.7 Attaching Prior Years’ Delinquent Taxes

Prior years’ delinquent taxes may be attached to real property in the current year. Prior years’ taxes, interest, and penalties should be attached in the same manner as the current year’s taxes.

11.11.8 Dissolving an Attachment

The assessor may, with the approval of the county legislative body, dissolve an attachment by abating the attached personal property taxes from the real property account and posting the attached amount back onto the personal property assessment roll.

11.11.9 Attachment Reconciliation

The Commission recommends that the assessor/treasurer generate a report of attached accounts from the personal property assessment roll before the accounts are transferred to the real property assessment roll. After the transfer, the treasurer should generate a similar report from the real property assessment roll. Comparing the two reports should serve as a check to ensure accuracy.

The two reports should contain the following information about each attached account:

- Real property parcel number
- Personal property account number
- Name of owner of both properties
- The amount of personal property taxes, interest, and penalties attached
- The tax area(s) of the attached personal property and the real property

Standard 11.12 Collection Steps Before Attachment

11.12.0 Attachment at Taxpayer Request

If the taxpayer requests attachment of personal property taxes in lieu of payment at the regular time, no collection steps are necessary prior to attachment.

11.12.1 Attachment for Non-Payment

When delinquency is the result of non-payment, the following should be considered before the personal property taxes are attached to real property:

- A reminder notice or notices should be sent.
- A certified letter or notice must be sent if taxes are to be estimated and penalty is to be added. (Section 59-2-307)
- If taxes are estimated, a tax notice showing the estimated assessment and accrued interest and penalties must be sent. (See *Standard 11.7*, “Estimated Taxes”)

Standard 11.13 Collection Steps After Attachment

11.13.0 Character of Personal Property Tax After Attachment

After attachment, personal property tax loses its identity and should be considered and treated as real property tax. Any interest and penalties that attach should also be considered and treated as real property tax.

11.13.1 Before the Real Property Tax Notices Are Sent

The treasurer or the assessor may accept payments on attached personal property taxes prior to the sending of the real property tax notices. However, if collected by the assessor/treasurer, the assessor/treasurer must then petition the county legislative body to allow the taxes to be treated as unsecured and not as secured by the real property. (See *Standard 11.11.8*, “Dissolving an Attachment”)

11.13.2 After the Real Property Tax Notices Are Sent

The treasurer must collect the attached personal property taxes in the manner provided for collecting real property tax if the real property tax notices have already been sent.

11.13.3 Recording the Payment

When the treasurer receives a payment for attached personal property taxes, the payment is recorded in the real property assessment roll.

Standard 11.14 Collection Steps Before Seizure And Sale

11.14.0 Collection Steps

After delinquency, the following should be considered before the assessor/treasurer seizes and sells personal property:

- Review and consider the same collection suggestions found in *Standard 11.12.1*, “Attachment for Non-Payment”.
- Attach the personal property taxes to real property, if possible. (See *Standard 11.11*, “Attachment to Real Property”)
- Continue to contact the taxpayer with notices, collection letters, and telephone calls.
- File a tax lien as allowed under the Uniform Commercial Code (“UCC”) with the Department of Commerce, especially if the taxpayer and the personal property cannot be located.

Examples of collection letters are included in Appendix 11B.

11.14.1 Collection Time Frame

The Commission recommends that these collection steps be completed within 3 to 4 months after delinquency. To delay the seizure and sale any longer would increase the risk of the property being moved or sold and would unnecessarily delay the distribution of taxes to the taxing entities.

Standard 11.15 Seizure and Sale

11.15.0 Seizing Personal Property

The assessor/treasurer or the sheriff, at the assessor’s/treasurer’s request, may immediately seize delinquent personal property by posting a Notice of Seizure on the property or by physically removing the property. The property is not usually removed, because of the time and expense involved. (Section 59-2-1303)

11.15.1 Privilege Tax Exception

Personal property taxed under the privilege tax provisions of Section 59-4-101 may not be seized and sold for delinquent taxes. Collection must follow the guidelines set forth in Section 59-4-102. If the tax becomes delinquent, the assessor/treasurer notifies the county auditor of the amount of tax, penalty, and interest due. The county auditor issues a warrant to the clerk of the appropriate district court. The court clerk will enter the warrant in the judgment docket. The warrant then has the same effect as a judgment, and the county has the same remedies against the possessor or user as any other judgment creditor.

11.15.2 Notice of Seizure

The “Notice of Seizure” should contain the following information:

- Statement that the property is being seized
- Account number
- Name of taxpayer
- Total amount of taxes, penalties and interest owed
- Total seizure costs
- Total amount due
- Description of property
- Street address of business
- Tax Area
- Signature of assessor/treasurer or deputy assessor/treasurer

See sample forms PT-115A, “Mobile Home Notice of Seizure”, and PT-116A, “Personal Property Notice of Seizure”, in Appendix 11C.

11.15.3 Seizure Costs

The assessor/treasurer may charge “actual and necessary” expenses for seizing the property. [Section 59-2-1303(2)] This collection cost should be reflected on the “Notice of Seizure”. At the time of seizure, the county may charge a preestablished fee for both the seizure and sale of the property. If so, that fee should appear on the “Notice of Seizure” as “Total Collection Costs for Seizure and Sale.”

11.15.4 Notice of Sale

Approximately 10 days before personal property is sold (10 days before first publication for residential mobile homes), a “Notice of Sale” should be prepared for publication.

The “Notice of Sale” should include the same information found on the “Notice of Seizure” (See *Standard 11.15.2*, “Notice of Seizure”), except that the “statement that the property is being seized” should be omitted. Instead, the “Notice of Sale” should include the following:

- Statement that the property will be sold
- Date, time, and location of the sale
- Years for which taxes, interest, and penalties are due
- Total collection costs for seizure and sale

See sample forms PT-115B, “Mobile Home Notice of Sale”, and PT-116B, “Personal Property Notice of Sale”, in Appendix 11C.

11.15.5 Total Collection Costs

“Actual and necessary” collection costs associated with the seizure and sale, such as newspaper advertising and travel, should be reflected on the “Notice of Sale.” [Section 59-2-1303(2)]

11.15.6 Combined Notice of Seizure and Sale

When the time and date of the sale have been established before the seizure occurs, the separate “seizure” and “sale” notices may be combined into one notice. The resulting “Notice of Seizure and Sale” is then used to seize the property and publicize the sale.

The “Notice of Seizure and Sale” should contain all elements of both the “Notice of Seizure” and the “Notice of Sale” (See *Standard 11.15.2*, “Notice of Seizure”, and *Standard 11.15.4*, “Notice of Sale”) See sample forms PT-115C, “Mobile Home Combined Notice of Seizure and Sale”, and PT-116C, “Personal Property Combined Notice of Seizure and Sale”, in Appendix 11C.

11.15.7 Location of Sale

The sale is generally held either at the property location or at the county courthouse. To better ensure that the property will sell, the property location is usually the preferred site, as most potential buyers prefer to inspect the property before the sale.

11.15.8 Date of Sale

The sale of seized property should not occur until the “Notice of Sale” can be adequately publicized. (See *Standard 11.15.10*, “Notifying the Public”) Approximately one week after the property is seized is the earliest sale date that is feasible.

11.15.9 Sale Date Exception for Residential Mobile Homes

For these properties, the sale date can be no sooner than one year after taxes become delinquent. [Section 59-2-1303(1)(b)(iii)]

11.15.10 Notifying the Public

The “Notice of Sale,” identifying the date, time, and location of the sale, must either be published in a newspaper with general circulation in the county or be posted in three public places in the county. The notice must be published or posted at least one week before the date of the sale. [Section 59-2-1303(1)(a)(iv)]

The county may both publish and post the notice to ensure greater publicity, thus increasing the chances of finding a buyer for the property.

11.15.11 Public Notification for Residential Mobile Homes

For these properties, publication of the date, time, and place of sale must be in a newspaper. The notice must run once in each of two successive weeks immediately preceding the date of the sale. [Section 59-2-1303(1)(b)(iv)]

11.15.12 “Actual Notice” to Interested Parties

Both federal and state courts have held that lienholders and delinquent taxpayers must receive the “best notice practicable” before property for which they have an interest is sold for delinquent taxes. Published notification does not satisfy this requirement. Instead, the assessor/treasurer must give these parties “actual notice” of the sale, either by sending or hand delivering a copy of the “Notice of Sale.” To help ascertain the names and addresses of lienholders, check the State Motor Vehicle Registration System for mobile homes and the State Department of Commerce for other personal property. In smaller communities, local banks may also supply information.

Note

The assessor/treasurer may also want to send the “Notice of Sale” to all known individuals or companies who may be interested in purchasing the delinquent property. Such an action may increase the chances that the property will sell. Examples include dealers in business products or owners of mobile home parks.

11.15.13 Notifying Owners of Residential Mobile Homes

Notice giving the date, time, and place of sale of residential mobile homes must be sent by certified mail at least 10 days prior to the first publication in the newspaper. This notice must be sent to all known owners, lien holders of record and any other person

known by the assessor/treasurer to have an interest in the mobile home. [Section 59-2-1303(1)(b)(v)]

Assessors/treasurers must make every effort to acquaint mobile home owners regarding delinquencies and payment options, and provide opportunities to clear the delinquencies without the requirement to seize and sell. These procedures require the assessor/treasurer to take a more affirmative stance in behalf of the mobile home owner to resolve payment problems.

11.15.14 Redemptions

The assessor/treasurer should allow the taxpayer to redeem seized personal property up until the time of the sale by paying all amounts due, including collection costs.

11.15.15 Conducting the Sale

A representative from the assessor/treasurer or the sheriff's office should conduct the sale. The sale should proceed, as follows:

- After announcing that the time and location of the sale are those that were publicized, offer the property for sale.
- State the minimum bid (the total amount due, including collection costs) and open the bidding.
- Accept bids until the last one is offered, then close the bidding.

11.15.16 Amount of Property to Sell

Before the sale, the assessor/treasurer should decide whether to sell the personal property as a whole or in individual parts. If the property can be sold in individual parts, the assessor/treasurer should sell only enough to cover all amounts due the county. Once enough property has been sold to pay the total amount due the county, the remaining property may be left at the location of the sale at the risk of the owner. [Section 59-2-1303(5)]

11.15.17 Payment

Payment in cash or certified funds at the time of the auction is recommended. The county may, however, establish its own payment criteria.

11.15.18 "Bill of Sale"

Once payment has been made, the assessor/treasurer shall issue the purchaser a "Bill of Sale", which should include the following information:

- Name and address of purchaser
- Amount purchaser paid for the property
- Description of property bought
- Signature of county assessor/treasurer and county clerk
- Date of sale

See sample form PT-117, "Bill of Sale", in Appendix 11C.

11.15.19 Excess Proceeds from Sale

If the property sells for more than was due the county, the excess proceeds are deposited into the county general fund until claimed by the owner of the personal

property. [Section 59-2-1303(4)] To obtain the excess, the owner should petition the county executive in writing.

11.15.20 No Minimum Bid at Sale

If the minimum bid is not offered at the sale for the seized property, the official conducting the sale shall declare the county to be the owner of the property. [Section 59-2-1303(6)] For this reason, the assessor/treasurer should be wary of seizing and selling property worth less than the amount due the county. The county could incur added costs for maintenance and disposal if it becomes the owner of the property. If the county is declared the owner of personal property at the sale, the county executive may then sell or rent the property upon terms determined by the county legislative body. [Section 59-2-1303(6)]

Standard 11.16 Interest

11.16.0 Interest

Interest must be calculated on and charged to delinquent personal property accounts. [Section 59-2-1302(4)] Interest must be charged on taxes due, but should not be charged on interest already accrued.

11.16.1 Period that Interest Accrues

Interest should be calculated and charged from the delinquency date until the date of payment. (See *Standard 11.9, "Delinquency"*)

11.16.2 Interest Rate

To compute the interest rate applied to delinquent personal property taxes, first determine the Federal Discount Rate (FDR) as of January 1 of the year those taxes were assessed. This FDR plus six percentage points is the interest rate. [Section 59-2-1302(4)] This interest rate is used not only to calculate interest on delinquent taxes in the year they were assessed, but also in any subsequent year they may remain delinquent. Thus, no matter how long a particular year's taxes remain delinquent, the interest rate applied on those taxes will never change.

11.16.3 Interest Rate on Subsequent Years' Taxes

Though the interest rate on a particular year's taxes never changes, the interest rate does change when applied to a subsequent year's delinquent taxes. The interest rate applied to the subsequent year's delinquent taxes would be the FDR found on January 1 of that subsequent year plus six percentage points.

Example

Taxpayer's personal property taxes from 1997, 1998, and 1999, are delinquent. The amount of taxes assessed in each year and the FDR on January 1 in each of these years are as follows:

- 1997: \$50 tax bill, 5% FDR (11% interest rate)
- 1998: \$60 tax bill, 4% FDR (10% interest rate)
- 1999: \$70 tax bill, 3% FDR (9% interest rate)

For this illustration, interest will be computed for the entire calendar year. Thus, interest in each year is calculated as follows:

1997

	Due
1997 \$50.00 at 11% =	\$5.50 \$55.50
Total 1997 Interest =	\$5.50

Total Delinquency due: \$55.50

1998

	Due
1997 \$50.00 at 11% =	\$5.50 \$55.50
1998 \$60.00 at 10% =	\$6.00 \$66.00
Total 1998 Interest =	\$11.50
Total 1997 Interest =	\$5.50

Total Delinquency due: \$127.00

1999

	Due
1997 \$50.00 at 11%=	\$5.50 \$55.50
1998 \$60.00 at 10%=	\$6.00 \$66.00
1999 \$70.00 at 9% =	\$6.30 \$76.30
Total 1999 Interest =	\$17.80
Total 1998 Interest =	\$11.50
Total 1997 Interest =	\$5.50

Total Delinquency due: \$214.80

11.16.4 Interest if Signed Statement Not Returned

If a self-assessing statement is not returned by the taxpayer, the assessor/treasurer should charge interest from the due date stated on the statement. If a regular signed statement is not returned, interest should be charged from the date the follow-up tax notice would have been delinquent. (See *Standard 11.9.1*, “Regular Signed Statements”)

11.16.5 Interest on Attached Taxes Until November 30

If personal property taxes are attached to real property, interest should be charged on the personal property taxes and be attached at the same time. This attached interest should be calculated from the date of delinquency until November 30, the date that the real property taxes are due, unless November 30 is not a business day. In this case, taxes are due the next business day. Those taxpayers who have historically been allowed to attach personal property taxes instead of paying them at the regular time must also be charged interest. If a tax notice is not sent to these taxpayers, interest should be charged beginning 30 days after a tax notice would normally have been sent. (See *Standard 11.11.3*, “Attachment and Delinquency”)

11.16.6 Interest on Attached Taxes After November 30

After attachment, the personal property taxes attached to real property are treated as real property taxes. Thus, if the real property taxes become delinquent, both the attached personal property taxes and the real property taxes are charged interest by the treasurer in accordance with the rules for delinquent real property.

Standard 11.17 Penalties

11.17.0 Collecting Penalties

A penalty must be charged for not returning a signed statement or for willfully concealing personal property. (See *Personal Property Valuation Standards of Practice*)

When charged, the penalty may be collected using the same methods used to collect delinquent personal property taxes, e.g., attachment, seizure and sale or by a judicial proceeding brought in the name of the assessor/treasurer. [Section 59-2-307(1)(c)]

11.17.1 Penalty After Attachment

If the real property taxes become delinquent after a personal property account is attached to real property, the 2% real property penalty is assessed on the entire amount of the real property tax bill, which includes all attached personal property charges. This penalty is then collected by the treasurer along with the delinquent real property taxes. [Section 59-2-1331(2)]

Standard 11.18 Overpaid And Underpaid Accounts

11.18.0 Change in Assessment or Tax Amount

If a review of the taxpayer's signed statement or an audit of the taxpayer's account (see *Personal Property Valuation Standards of Practice*), shows that the taxpayer either overpaid or underpaid personal property taxes, the assessor/treasurer must either collect the amount underpaid or refund the amount overpaid.

11.18.1 New Tax Notice

In either instance, the assessor/treasurer should send the taxpayer a new tax notice containing: (1) applicable tax notice information detailed earlier in Section II, "Billing Personal Property Taxes", (2) the amount underpaid or overpaid, and (3) an explanation of how the underpayment or overpayment was determined.

It is important to include notice of the taxpayer's appeal rights and process, e.g., appeal within 30 days on the new tax notice. Failure to include the appeal information may result in the taxpayer's ability to appeal years later.

11.18.2 Billing Amount Underpaid

If an underpayment is discovered, the following should apply to the new tax notice:

- The due date should be 30 days after the notice is sent.
- Interest should not be charged on the underpaid amount unless that amount is not received by the due date in the notice.
- If the underpayment was the result of willful concealment (see *Personal Property Valuation Standards of Practice*), charge the taxpayer a penalty from the date the tax was first due.

11.18.3 Refunding Amount Overpaid

If an overpayment is discovered, the assessor/treasurer should proceed as follows:

- Send the taxpayer a new tax notice and return the refund as soon as practical.
- Do not add and refund interest for the time the overpayment was in the county's possession.

11.18.4 Prior Years

If an audit of an account shows that personal property was incorrectly taxed in a prior year, the assessor/treasurer should make sure that the tax rates that applied to that prior year are used to determine the amount of the overpayment or underpayment.

11.18.5 Refund on Over-estimated Accounts

Sometimes audits are made to accounts that have been estimated by the assessor/treasurer and the audited value is lower than the assessor/treasurer's estimate. Although the county board of equalization and State Tax Commission have no authority to lower an assessor/treasurer estimation, the assessor/treasurer may, depending on the circumstances, lower the estimation to match the audited value. Whether lowered or not for the current year, the new corrected values should be used as the base for the following year's assessment.

Standard 11.19 Taxpayer Bankruptcy

11.19.0 Characteristics of Bankruptcy

If a personal property taxpayer declares bankruptcy, collection of delinquent taxes may become complex. Complexity arises because the rules for various bankruptcy chapters are different and because delinquent taxes may be treated in a different manner than the interest that has accrued on those taxes. It would be prudent to consult with the county attorney when collecting taxes after a bankruptcy has been declared.

11.19.1 General Steps

If a delinquent personal property taxpayer has declared bankruptcy, the assessor/treasurer may follow these general steps:

- Flag the account to stop all collection proceedings.
- File a claim with the bankruptcy court for all delinquent amounts due the county. See Appendix 11D for a sample "Bankruptcy Court Secured Claim" form. When the court notifies the county of a bankruptcy, the packet should include a bar-coded claim form with much of the information filled in. When provided, counties are requested by the court to use these bar-coded forms for more efficient processing.
- Send a copy of the bankruptcy proceedings to the county attorney and allow the attorney to respond to any debtor/creditor motions.
- As taxes subsequent to the bankruptcy filing are assessed, file an administrative claim with the bankruptcy court for the amount due and send a notice to the taxpayer.
- If the subsequent tax is not paid by the taxpayer, do not proceed with any other collection efforts in regards to that subsequent tax.

Standard 11.20 Property Moved From County

11.20.0 Statutory Remedy

Section 59-2-1306 allows a suit to be brought to collect personal property taxes when that property is moved after assessment to another county in the State of Utah. A suit, however, may not be economically feasible except in cases involving large amounts of delinquent taxes.

11.20.1 Other Remedies

If a suit is not feasible, the assessor/treasurer may want to attempt collection by any or all of the following:

- If possible, attach the taxes to real property.
- Proceed with notices, collection letters, and telephone calls; however, the property may not be seized if these steps are unsuccessful.
- Have the county legislative body abate the delinquent taxes and allow the county to which the property was moved to assess and collect personal property taxes for itself, as allowed by Section 59-2-401.
- Though there is no statutory authorization, some counties have worked out, on a case-by-case basis, an arrangement with the assessor/treasurer of the county to which the property was moved to collect the taxes and send an arranged portion of the taxes to the original county.

11.20.2 Property Moved Out-of-State

There are no feasible remedies to collect personal property taxes once the property is moved out-of-state. By initiating the collection process immediately upon delinquency, the chances of the property being moved out-of-state before collection are reduced.

Standard 11.21 Delinquent Taxes On A Property Interest in State Lands

11.21.0 Property Interest in State Lands

Delinquent taxes on a property interest in land still held in the State of Utah's name shall be collected in the same manner as taxes on personal property. [Section 59-2-1103(5)]

11.21.1 Property Interest Seized and Sold

If the property interest is seized and sold, a certificate of sale is issued. A copy of the certificate should also be filed with the Board of State Lands to effectively assign the interest of the original purchaser to the tax sale purchaser. [Section 59-2-1103(6)]

Standard 11.22 Uncollectible and Small Accounts

11.22.0 "Writing Off" an Account

The assessor/treasurer may determine when an account is "uncollectible" or too small to warrant collection efforts. These accounts may then be "written off."

11.22.1 Circumstances

Among the reasons a personal property tax may be "written off" include:

- The owner and the property have disappeared.
- The personal property is not considered valuable enough to seize and sell for the amount due.
- The amount owed is so small that the expense of the collection effort is greater than the revenue that would be collected.

11.22.2 Filing Under the UCC

One way to encourage a taxpayer who cannot be located to pay delinquent personal property taxes is to file a lien under the UCC. The filing will last five years. Even if this

option is chosen, the county may decide to “write off” the account before the five years have expired.

11.22.3 Procedure to “Write Off” Taxes

If the assessor/treasurer determines that a personal property tax should be written off, these steps are recommended:

- Petition the county governing body to abate the taxes.
- Adjust the personal property assessment rolls to “zero out” the uncollectible taxes.

11.22.4 Recommendation for Written Policy

The Commission recommends that the county institute a written policy for determining and “writing off” uncollectible accounts.

Appendix 11A

Assessment and Tax Notices

PT-111	Personal Property Assessment and Tax Notice
PT-112	Leased Personal Property Assessment and Tax Notice

Appendix 11B

Collection Letters

Personal Property

PT-114A	Personal Property Late Letter
PT-114B	Personal Property Threatening Seizure and Sale
PT-114C	Personal Property Threatening Attachment
PT-114D	Personal Property to Lienholder
PT-114E	Personal Demand Property

Appendix 11C

Notices of Seizure and Sale

Personal Property

PT-116A	Notice of Seizure
PT-116B	Notice of Sale
PT-116C	Combined Notice of Seizure and Sale
PT-117	Bill of Sale

Appendix 11D

Bankruptcy Claim Form

Personal Property Assessment and Notice
Tax Year _____

Form PT-111
PT-111.ai Rev. 5/00

Owner name and address

Property ID number

Property location/address

Due Date

Total taxable value

Tax rate

Current year taxes due

Applicable tax relief credits

Total due from prior year(s)

Total Taxes Due

If taxes are not paid by the due date, interest will begin to accrue and collection proceedings will begin. If you disagree with the above assessment, you must notify this office within thirty days of receiving this notice, giving full explanation of the error(s). If this office is unable to correct or change this assessment to your satisfaction, you may further appeal, in writing, to the county Board of Equalization within 30 days of our final evaluation, at the address below.

County Assessor
(address and telephone)

Board of Equalization, County Auditor
(address and telephone)

Tax Year

Due Date

Property ID No.

Total Amount Due

\$

Remove this bottom portion and return with your payment to the assessor's office.
Checks should be made payable to: _____, County Assessor

Owner's name and address

Leased Personal Property Assessment and Notice Tax Year _____	Form PT-112 PT-112-1.ai Rev. 5/00
--	---

Owner name and address	Account/Property ID number
	Due Date

Enclosed you will find your final billing for leased personal property reported to this office. We have assessed the taxes on each individual item of leased property according to its property type, its cost, its age, and its location.

The total amount due is summarized on the last page of this notice. If these taxes are not paid by the due date, interest will begin to accrue and collection proceedings will begin.

If you disagree with the assessment, you must notify this office within thirty days of receiving this notice, giving full explanation of the error(s). If we are unable to correct the error(s) to your satisfaction, you may further appeal to the county Board of Equalization within thirty days of our final valuation. Appeals to the Board of Equalization must be made in writing to the address below.

County Assessor (address and telephone)	Board of Equalization, County Auditor (address and telephone)
---	---

Tax Year	Due Date	Account/Property ID No.	Total Amount Due
			\$

Remove this bottom portion and return with your payment to the assessor's office.
 Checks should be made payable to: _____, County Assessor

Owner's name and address

Taxes Due in Each Taxing Area

Taxing Area	Taxable Value	Tax Rate	Tax Due

Total taxable value of all areas

Total current year taxes due

Applicable tax relief credit

Total due from prior year(s)

Total Taxes Due

Sample Personal Property Late Letter

Form PT-114A
PT-114a.ai Rev. 12/99

Business Name
Attn: Business Representative
Main St.
SLC, UT 84000

Letter date
Account number
Tax period(s)
Balance due

RE: Delinquent Personal Property Taxes

Dear Business Representative,

Attempts to reach you by telephone have been unsuccessful. It is imperative that you forward immediate payment of the delinquent personal property taxes listed above.

We will delay collection proceedings for ten days from the date of this notice while awaiting payment. You may contact our office at the address or telephone number listed below if you have any questions or concerns.

Respectfully,
County Assessor

County Assessor
(address and telephone)

**Sample Personal Property Letter
Threatening Seizure and Sale**

Form PT-114B
PT-114b.ai Rev. 12/99

Business Name
Attn: Business Representative
Main St.
SLC, UT 84000

Letter date

Property identification number

Tax period(s)

Balance due

RE: Delinquent Personal Property Taxes

Dear Business Representative,

We are writing to you at this time to express our concern that the taxes on your personal property are seriously delinquent. Pursuant to UCA §59-2-1303, the county assessor is required to proceed with seizure and sale of any personal property belonging to the owner or person in possession upon 30 days of delinquency. We would like to offer you every opportunity to pay the taxes before further collection proceedings are initiated.

As a courtesy to you, we will forestall any further collection attempt for 15 days. If you have questions or concerns, please contact our office at the address or telephone number listed below.

Respectfully,
County Assessor

County Assessor
(address and telephone)

**Sample Personal Property Letter
Threatening Attachmenet**

Form PT-114C
PT-114c.ai Rev. 12/99

Business Name
Attn: Business Representative
Main St.
SLC, UT 84000

Letter date
Parcel number
Tax period(s)
Balance due
Due date

RE: Delinquent Personal Property Taxes

Dear Business Representative,

With regard to the foregoing assessment of personal property, our records indicate that this account is seriously delinquent. Upon default, the county assessor is required to enforce collection pursuant to UCA §59-2-1302, which provides that every current tax upon personal property is a lien upon the real property of the owner, and will be attached to your real property tax assessment unless payment is made voluntarily.

It is not our desire to pursue collection in this manner. However, unless payment is made immediately we have no alternative. If we do not receive full payment by the date listed above, we will attach the delinquent taxes, interest, and penalty to your real estate represented by the parcel number listed above.

Respectfully,
County Assessor

County Assessor
(address and telephone)

Sample Personal Property Letter to Lienholder

Form PT-114D
PT-114d.ai Rev. 12/99

Lienholder Name
Attn: Lienholder Representative
Main St.
SLC, UT 84000

Certified Mail

Letter date
Parcel number
Tax period(s)
Balance due
Due date

RE: Delinquent Personal Property Taxes

To whom it may concern,

Our records indicate "LIENHOLDER NAME" has a secured interest in personal property of the business owner listed above. Pursuant to UCA §59-2-1302 and §59-2-1303, the amount of tax assessed upon personal property shall be considered delinquent if not paid within 30 days of the mailing of the notice of taxes. Unless the taxes are paid within the period, the assessor shall collect the taxes, including accrued interest, by seizure and sale of any personal property owned by the person against whom the tax is assessed. The property taxes on this account are seriously delinquent.

Attempts to collect the above taxes voluntarily from the taxpayer have failed. Although the county assessor's office is not required to notify secured parties of our intent to seize the property, we do feel obligated to notify you so that you may protect your interest in the property. Payment will need to be made on or before the due date above in order to forestall the seizure process. Seizure and sale collection procedures have been initiated, and unless full payment is received, the sale will occur on ("DATE"), at ("TIME"), at ("PLACE"). If you no longer have a secured interest in this property, please forward a release of lien to our office immediately. Should you have any questions feel free to contact our office at the address or telephone number listed below. Your cooperation is greatly appreciated.

Respectfully,
County Assessor

County Assessor
(address and telephone)

Sample Personal Property Demand Letter

Form PT-114E
PT-114e.ai Rev. 12/99

Business Name
Attn: Business Representative
Main St.
SLC, UT 84000

Letter date

Parcel/account number

Tax period(s)

Balance due

Certified Mail

RE: Delinquent Mobile Home Taxes

Dear Business Representative,

We have previously written you concerning the delinquent taxes on your business property. As of the above date we have not received payment.

Section 59-2-1302 of the Utah Code Annotated states that the tax is delinquent if not paid within 30 days of the mailing of the tax notice and will begin to accrue interest. In addition, Section 59-2-1303 requires the county assessor to seize and sell any personal property owned by the person against whom the taxes are assessed if the taxes are not paid in accordance with the statutes.

It is imperative that you pay the amount due listed above within 10 days of receipt of this letter. Failure to do so will require the assessor's office to initiate seizure and sale collection proceedings. If you have any questions, contact our office at the address or telephone number below.

Respectfully,
County Assessor

County Assessor
(address and telephone)

**Personal Property
Notice of Seizure**

UCA §59-2-1303
Form PT-116A
PT-116a.ai Rev. 5/00

Pursuant to the authority contained in UCA §59-2-1303, the property listed below is hereby seized for nonpayment of taxes and interest due from the delinquent taxpayer listed below, in the listed amounts of taxes, interest, and collection costs for statutory costs associated with the seizure and sale.

Account and Property Information

Account/property identification number	Tax period(s)	Tax area
Taxpayer name and address		County assessor/treasurer name and address
Property description All furniture, fixtures, equipment, machinery, and/or other personal property, on or off the location described below, owned by the above named delinquent taxpayer (individual, partnership, or corporation).		Property location

Total amount of taxes, penalties and interest owed

Total collection costs for seizure and sale

Total amount due

County assessor/treasure signature

Date

DO NOT REMOVE THIS NOTICE OR THE PROPERTY

**Personal Property
Notice of Sale**

UCA §59-2-1303
Form PT-116B
PT-116b.ai Rev. 5/00

Pursuant to the authority set forth in UCA §59-2-1303, notice is hereby given that the property listed below of the delinquent taxpayer listed below, will be sold at public auction on the date and time and at the location listed below, to satisfy delinquent personal property taxes and interest for the year(s) listed below, for the amounts listed below.

Account and Property Information

Account/property identification number	Tax period(s) for which taxes, penalties and interest are due	Tax area
Property description All furniture, fixtures, equipment, machinery, and/or other personal property, on or off the location described below, owned by the above named delinquent taxpayer (individual, partnership, or corporation).		Property location
Taxpayer name and address		County assessor/treasurer name and address

Tax Information

Total taxes, penalties and interest due

Total collection costs for seizure and sale

Total amount due

County assessor/treasure signature

Date

Auction Date and Location

Date

Time

Location

**Personal Property
Notice of Seizure and Sale**

UCA §59-2-1303
Form PT-116C
PT-116c.ai Rev. 5/00

Pursuant to the authority set forth in UCA §59-2-1303, notice is given that the property listed below of the delinquent taxpayer listed below is hereby seized for nonpayment of taxes and interest due, and will be sold at public auction on the date and time and at the location listed below, to satisfy delinquent personal property taxes and interest for the year(s) listed below, for the amounts listed below.

Account and Property Information

Account/property identification number	Tax period(s) for which taxes, penalties and interest are due	Tax area
Property description All furniture, fixtures, equipment, machinery, and/or other personal property, on or off the location described below, owned by the above named delinquent taxpayer (individual, partnership, or corporation).		Property location
Taxpayer name and address		County assessor name and address

Tax Information

Total taxes, penalties and interest due

Total collection costs for seizure and sale

Total amount due

County assessor/treasure signature

Date

Auction Date and Location

Date _____

Time _____

Location _____

DO NOT REMOVE THIS NOTICE OR THE PROPERTY

Bill of Sale	UCA §59-2-1303 Form PT-117 PT-117.ai Rev. 5/00
---------------------	--

For and in consideration of \$_____, on _____, 20_____,
payment of which is hereby acknowledged, _____ County hereby
conveys to (name and address of purchaser):

the following described personal property, with all the rights, privileges, and incidents of ownership
provided by law pursuant to UCA §59-2-1303:

_____ County

_____ County Assessor

Attest:

_____ County

_____ County Clerk

United States Bankruptcy Court District of Utah		Proof of Claim
Name of Debtor	Case Number	
Note: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property):	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the bankruptcy court.	
Name and Address Where Notices Should Be Sent		
Account or other number by which creditor identifies debtor:	Check here if this claim <input type="checkbox"/> replaces or <input type="checkbox"/> amends a previous claim, <div style="text-align: right; font-weight: bold;">THIS SPACE IS FOR COURT USE ONLY</div>	
1. Basis for Claim <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Goods Sold <input type="checkbox"/> Services Performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal Injury/Wrongful Death <input type="checkbox"/> Taxes </div> <div style="width: 50%;"> <input type="checkbox"/> Retiree Benefits as defined in 11 U.S.C. §1114(a) <input type="checkbox"/> Wages, Salaried, and compensations (Fill out below) Your Social Security Number _____ <input type="checkbox"/> Unpaid compensation for services performed from _____ to _____ </div> </div>		
2. Date Debt Was Incurred:	3. If court judgement, date obtained:	
4. Total Amount of Claim at Time Case Filed: \$ _____ If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box is claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or		
5. Secured Claim <input type="checkbox"/> Check this box if your claim is secured by collateral (include a right of setoff). Brief Description of Collateral: <div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle </div> <input type="checkbox"/> Other: _____ Value of collateral: \$ _____ Amount of arrearage and other charges <u>at time case filed</u> included in secured claim above, if any:	6. Unsecured Priority Claim <input type="checkbox"/> Check this box if you have an unsecured priority claim. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, Salaries, or commissions (up to \$4,300)*, earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier. - 11 U.S.C. §507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507(a)(4) <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(6) <input type="checkbox"/> Taxes or penalties of governmental units - 11 U.S.C. §507(a)(7) <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §§507(a)(____)	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		<div style="text-align: center; font-weight: bold;">THIS SPACE IS FOR COURT USE ONLY</div> Please mail or file this form to: U. S. BANKRUPTCY COURT 350 SOUTH MAIN STREET SALT LAKE CITY, UT 84101
8. Supporting Documents: <i>Attach copies of supporting documents</i> , such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security interests, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are voluminous, attach a summary.		
Date	Sign and print name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§152 and 3571		

Instructions for Proof of Claim Form

The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor, there may be exceptions to these general rules.

Definitions

Debtor

The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.

Creditor

A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgement is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim*.)

Unsecured Claim

If a claim is not a secured claim, it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

Unsecured Priority Claim

Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as *Unsecured Nonpriority Claims*.

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number:

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

Information about Creditor:

Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

1. Basis for Claim:

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

2. Date Debt Incurred:

Fill in the date when the debt first was owed by the debtor.

3. Court Judgments:

If you have a court judgment for this debt, state the date the court entered the judgment.

4. Total Amount of Claim at Time Case Filed:

Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

5. Secured Claim:

Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim, attach copies of the documentation of your lien, and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See "Definitions", above.)

6. Unsecured Priority Claim:

Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See "Definitions", above.) A claim may be partly priority and partly nonpriority if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.

7. Credits:

By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

8. Supporting Documents:

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If the documents are not available, you must attach an explanation of why they are not available.